

**Legislative Council**  
**Hansard**  
**Tuesday 19 September 2024**

*[excerpt...]*

**Motion**

**Tasmanian National Preventative Mechanism – Note Report**

[5.14 p.m.]

**Ms WEBB** (Nelson) – Mr President, I move –

(1) That the Legislative Council –

- (a) Notes the inaugural Implementation Report (the Report) of the Tasmanian National Preventative Mechanism (TNPM), Preventing torture and ill-treatment in Tasmania: Report to the Tasmanian Government on the Implementation of the Tasmanian National Preventative Mechanism under the OPCAT Implementation Act 2021, November 2023;
- (b) Recognises the Report's acknowledgment of the importance of the "strong civil society response" to the TNPM establishment project;
- (c) Further notes the Report's eight recommendations:
  - (i) That the Tasmanian NPM be established as a new specialised institution, separate from the Ombudsman;
  - (ii) That the person appointed as Tasmanian NPM concurrently serve as Custodial Inspector, which is also to be separated from the Ombudsman, and the offices combined under the recommended governance model;
  - (iii) That the Tasmanian NPM delegate authority to the Commissioner for Children and Young People and establish a joint process agreement for the exercise of functions pertaining to children and young people;
  - (iv) That the Commissioner for Children and Young People and the Custodial Inspector be specifically resourced to contribute to the delivery of the Tasmanian NPM;
  - (v) That the Tasmanian NPM and Commissioner for Children and Young People be colocated in a purpose designed office setting;
  - (vi) That the Tasmanian NPM establish a formal and permanent Civil Society Advisory Council, which is integrated into its governance structure;

- (vii) That the Tasmanian NPM's corporate services are provided by an agency over which it will not exercise oversight; and
  - (viii) That the Tasmanian NPM and Commissioner for Children and Young People engage cooperatively and provide advice to Government on an agreed approach to the implementation of Commission of Inquiry recommendations related to OPCAT and youth justice inspections
- (2) That the Legislative Council further notes the Report's Foreword contains a call by the current Tasmanian NPM's urging the Tasmanian Government to accept the Report's recommendations in full.
- (3) That the Legislative Council calls on the Tasmanian government to:
- (a) Commit to accepting and delivering the Report's eight recommendations in full;
  - (b) Deliver an update on any progress made on implementation of any recommendations since the Report's public release on 1 December 2023; and
  - (c) Detail a timeframe for the delivery and implementation of any remaining recommendations still to be undertaken and completed.

Mr President, I rise to commence debate today on the motion under my name, Motion No 1 on the Notice Paper, regarding the inaugural implementation report of the Tasmanian National Preventative Mechanism. That report is titled 'Preventing torture and ill-treatment in Tasmania: Report to the Tasmanian Government on the Implementation of the Tasmanian National Preventive Mechanism under the OPCAT Implementation Act 2021. It is dated November 2023.

It may surprise members to hear that I had actually hoped we would not need to bring this motion on for debate at all. Given the significant role and responsibilities of the Tasmanian National Preventative Mechanism (the TNPM) this motion should not really be necessary. As many may have noted, I tabled this motion on Tuesday 12 December 2023, just shy of 12 months ago. In that period of almost a year, decisive actions by government, including decisions and resourcing, could and should have rendered this motion superfluous. However, sadly, it remains as timely now as when I first tabled it nearly 12 months ago.

For the benefit of new members and those who may be watching, the logical place to begin is to provide a brief overview of exactly what the Tasmanian National Preventative Mechanism is, its role, and the responsibilities as detailed in the implementation report.

The TNPM is an independent statutory body established under the state's OPCAT Implementation Act 2021. A little more on the act later. The fundamental function and objective of the TNPM is to prevent torture and ill-treatment by embedding

best practice human rights in places across Tasmania where people are or may be deprived of their liberty. Most people's initial assumption is this means those detained in prison or some other form of correctional institution. They are therefore surprised to discover that while that is the case, we, as in the state, also detain and deprive people of their liberty in a range of other places. This includes in a hospital or a similar place, a closed psychiatric facility, a police station or court cell complex, a vehicle used or operated to convey detainees, or any other place prescribed in accordance with the OPCAT Implementation Act 2021. Put in its broadest sense and in accordance with Article 4 of the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, I quote:

deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

For those being detained and deprived of their liberty, that application can be very broad. It is a very powerful thing, to have the right to remove or infringe in some legislated manner another citizen's right to liberty.

Those students of philosophical and political science will recognise that much of what is identified as modern western culture revolves around the concept of freedom and liberty, whether you consider yourself a libertarian or not. So many past and present debates occur within a tension-filled matrix, evaluating the appropriate, or otherwise curtailing the freedom of movement. Consider the reaction we saw in recent times when we had border closures during the COVID-19 pandemic, for example, to see where that tension emerges and sometimes erupts. Then there is freedom of speech, freedom of the press, freedom to political association, and the list goes on. Therefore, the right of the state to curb or remove, even temporarily, these freedoms, comes down to motivation and justification for doing so.

An obvious justification within our criminal justice framework is state-endorsed punishment - a simplified description for correctional and penal systems. Many here would be aware of the work of social philosopher Michel Foucault, in his seminal publication *Discipline and Punish: The Birth of the Prison*, published in 1975. Foucault traces western history and state-sanctioned methods of punishment. Foucault's theory is the trajectory for medieval practices of state-wielded authority to inflict physical punishments, through to current practices deemed more acceptable by our modern sensibilities, such as incarceration, incorporating high standards of duty of care. That evolution over centuries maps both what our society considers acceptable, and also how those wielding power have adapted to how they exercise that power.

Foucault postulated that modern western societies now punish serious breaches of our social contract by targeting that which modern citizens value - our personal liberty. Additionally, the state has also assumed a non-punitive role which we describe as removing people from their own autonomous self-care who are assessed as posing a risk to themselves as well as potentially to others.

Some in the community are surprised to discover hospitals, mental health facilities and aged care facilities fall within the remit of the UN OPCAT agreement. This recognises that with the state-sanctioned power to constrain or deprive liberty comes the equally serious risk of abuse of that power. The use of bed constraints or drugs for those deemed at risk of self harm in medical facilities, for example, failure to provide hygiene care to abusive dementia patients, children locked down in isolation for extended periods of time in youth detention centres. All are examples of state-sanctioned exercise of power via laws passed by democratically elected parliaments such as this place.

Sleep deprivation, physical restraints, forced administration of drugs, isolation can all be justified as recognised and authorised forms of appropriate care, but in other circumstances they are equally recognised under international convention as forms of torture. The potential abuse of that legislative power can occur at many levels. It may stem from isolated incidences of poor practice, through the institutionalised normalising of cruelty, stigmatisation and dehumanisation. It may no longer be officially sanctioned, but cruelty, torture and stripping of human dignity can and does still occur. That is where the UN OPCAT agreement comes in.

OPCAT is countries such as Australia, when it ratified the convention in 2017, recognising its responsibility to ensure it exercises appropriately its sanctioned right to deprive liberty of its citizens and residents in specified circumstances. Ratification of OPCAT and the legislating of implementation laws such as Tasmania did in 2021, is recognition of the potential for the abuse of those rights and powers and the potential abrogation of those responsibilities exists. It is not some far-flung conspiracy theory; it is real and it can happen here. When this parliament passed the OPCAT Implementation Bill 2021, which came into law on 20 January 2022, Tasmania was the first Australian jurisdiction to do so in compliance with Australia's responsibilities upon ratification of the protocol. No law is ever perfect; however, this is something of which we deserve to be proud of.

This was seismic formal recognition that we have more than the principle of a duty of care to those in the state's custody. We have a fundamental human rights obligation and responsibilities. This brings us back to the Tasmanian National Preventative Mechanism (TNPM) established as an independent, permanent monitoring body of those human rights within Tasmania's prisons and places of detention deprived of liberty under Part 2 of the OPCAT Implementation Act 2021.

Although the focus of this motion is on the TNPM implementation report, which I will now turn to, it is important to place both the TNPM and this report within that broader historic international and national human rights framework and obligations in order to fully recognise the significance of this independent statutory entity and the implications of inadequate state action and resourcing in relation to it.

The 'Preventing torture and ill treatment in Tasmania Implementation report' of the TNPM not only describes what the TNPM is, but more importantly, provides a detailed synopsis of how it intends to undertake its mandated responsibilities. This report, which was released publicly on 1 December 2023, provides a detailed account of the processes, consultation and time lines undertaken to develop the TNPM in

accordance with both our act and the ongoing development of the national OPCAT framework, consistent with Australia's obligations under OPCAT.

According to the implementation report, the project's objective was: 'to design an NPM framework that is appropriate for Tasmania, embraces contemporary best practice and provides a road map for its operationalism'.

That is from page 33 of the report. That road map includes a development of the series of expectations for the treatment of people deprived of their liberty. These expectations are intended to be working documents used to support the TNPM by detailing facility visit processes and criteria. They are currently available on the TNPM website and are intended to operate as living documents.

The implementation report also provides projected establishment and ongoing operational budgets, plus a series of recommendations. It truly represents a substantial and impressive body of work undertaken over a mere 12 months, between September 2022 and September 2023, with Tasmania at the forefront of developing an OPCAT compliant operational model.

Time constraints today prevent me from reviewing the implementation report in detail, but others are able to do that at their leisure. Instead, today I wish to focus on the report's eight recommendations, as detailed in the motion that we have before us, and further, in the interest of efficiency, rather than go through the eight individually, I shall instead discuss them thematically.

The first of those themes is independence. The statutory and operational independence of the TNPM is non-negotiable. As acknowledged, in the then Attorney-General's second reading speech of 2021, in order to be compliant with OPCAT, each and every Australian state and territory needs and I quote former Attorney-General Elise Archer:

... to designate an independent monitoring body for the prevention of torture and ill treatment at the domestic level, which the protocol names the National Preventative Mechanism or NPM for short.

So, an independent monitoring body. Recommendations 1, 2, and 7 go to the best model by which to implement an effective independent monitoring body. Given it was mooted during debate, the Tasmanian NPM would be added to the multiple hats already collected by the Tasmanian Ombudsman, in particular, including also the role of the Custodial Inspector. Arguments were put forward at the time to establish the TNPM as separate to and distinct from the Office of the Ombudsman, which currently has seven separate roles at last count. Clearly this view was reinforced by the first recommendation of the TNPM, which was to be established as a new specialised institution separate from the Ombudsman.

It is also reiterated by the current Ombudsman in the implementation reports' foreword where he states, 'a key outcome of this project is that the Tasmanian NPM must stand on its own, led by a person that does not concurrently serve as Ombudsman'.

It makes sense on so many practical, mandate, and operational levels, as does recommendation 7 that the TNPM's corporate services are provided by an agency over which it will not exercise oversight and consideration be given to its designation as a state authority under the State Service Act 2000. As detailed on page 135 of the implementation report, 'this is to safeguard and uphold the TNPM's critical independence. Particularly of those it may be monitoring in its oversight capacity'.

The next area I would like to touch on is the structure of the NPM and co-location with the Office of the Commissioner for Children and Young People. In addition to concerns raised, with yet further hats being placed on the current Office of the Ombudsman's role, members who participated in the 2021 debate would recall the discussion regarding the fact that the role does not need to be filled by a single individual or office. Arguments were put forward at the time to establish the TNPM as a multiple grouping delivering on the mandated rolls and referring in support of that position to the few available international examples of models at the time that utilised multiple independent entities to comprise their respective TNPMs. New Zealand's NPM, for example, consists of a group of statutory bodies which share their oversight responsibilities, including the New Zealand Ombudsman, the Independent Police Conduct Authority, the Children's Commissioner and Commission, and the Inspector of Service Penal Establishments, all coordinated by the New Zealand Human Rights Commission, which acts as a central NPM.

In that context, the implementation report's recommendations 3, 4, 5, and 8 are highly pertinent and, in my opinion, should be adopted expeditiously, particularly in light of current discussions regarding the formation and structure of the new Commissioner for Children and Young People in this state. It is opportune to consider in a holistic and integrated manner how that fits alongside the TNPM. The specific and reiterated recommendation of the inclusion of the Children's Commissioner as a member of the operational TNPM is also highly relevant. A significant formal recognition of the different human rights responsibilities, rights, and obligations when it comes to detaining and depriving the liberty of our children and young people, whether for restorative justice, health, education or other reasons. It should not need pointing out that in light of the commission of inquiry, this recognition as articulated by these recommendations, must be heeded.

Moving on to another extremely significant area recognised by recommendation 6, which is that a formal and permanent civil society advisory council that is integrated into the TNPM's governance structure, be established. This is a long overdue and very welcome recommendation. Many in our civil society have lived experience, a broad range of expertise and skills which should be tapped into to drive the necessary cultural change both within our institutions and facilities, as well as without. TNPM has a mandated educative function which is fundamental to the premise of prevention. Educating and driving cultural change amongst our policy developers, implementers, legislators, budget designers, schools, workplaces, et cetera, can only be done do so with the active engagement with and utilisation of our civil society individuals and organisations, such as our local groups. TasOPCAT comprises lived experience, policy and academic expertise, as well as operational and community delivery skills. Hear, hear to recommendation number 6.

The implementation report presents a comprehensive document culminating 12 months of work. It must be acknowledged that, as stated by the Custodial Inspector in his foreword to the report, the funding provided in both the 2022-23 and 2023-24 state budgets reflected the initial request to undertake the implementation project and hire the necessary staff required for that project. However, there now appears to be a worrying stagnation of government support and resourcing. On 7 August this year, we saw the Tasmanian Custodial Inspector take a highly unusual public step. The Custodial Inspector, Mr Richard Connick, issued a media statement calling for urgent funding to support the further implementation of OPCAT in Tasmania, saying that vulnerable people in the community are being left at risk of being deprived of their human rights. Further, despite funding the initial implementation planning, Mr Connick states funding commitments following the release of the implementation report remain unclear, while there is an urgent need for the implementation of OPCAT in Tasmania to ensure all people deprived of their liberty are treated humanely and in accordance with fundamental human rights. When the September state budget for 2024-25 was delivered, we see a measly \$300,000 provided to the TNPM. When we examined the ombudsman during the Legislative Council budget estimate scrutiny hearings on Monday 23 September this year, here is a brief snippet of that examination on this topic.

I asked in that estimate of the Ombudsman: Perhaps we could ask the Tasmanian TNPM how many visits are made possible under the \$300,000 a year?

Mr Connick replied: Thank you. Effectively not many, if any at all

Chair: Effectively not many.

Ms Webb: So perhaps no visits at all?

Mr Connick: Perhaps no visits. One thing that I can do with that money is make the position of the director a permanent one, but that's about all I can do with it.

Despite funding a 12-month implementation project which delivered a comprehensive report, including a budgeted proposal covering the establishment and operations of the TNPM, which required, according to that report, approximately \$1.5 million for the financial year 2024-25 and \$1.7 million for the financial year 2025-26, when it was projected that TNPM would be fully functional, the government, in its wisdom, provides a tokenistic \$300,000. Attempting to disparage this as a joke, however, the deprivation of liberty of our fellow Tasmanians is not a joke, not even a bad one. Instead, what this failure to adequately respect the role of the TNPM and fund it accordingly indicates is that Tasmania is largely compliant with our national and international obligations solely on paper. Disappointingly, Tasmania is not complying with nor delivering on the intent and the spirit of our OPCAT law, which we so laudably passed first in nation. This failure is not due to any negligence on behalf of the Tasmanian National Preventative Mechanism and the wonderful work that it has put in to providing a model through its implementation report.

I could go on with my concern and outrage about the blatant disregard and gaslighting of the community the government has indulged in here via their failure to take their own legislation seriously. It is evident they hold in contempt Tasmanians' human rights, as demonstrated by their disregard for the fact the state has a responsibility to ensure the TNPM is funded and resourced so that it can deliver on its legislative requirements.

This brings me to clauses two and three of the motion before us. I note that despite Mr Connick in the implementation report's foreword urging the state government to accept the report's recommendations in full, there does not appear to be a formal response by the government to this report, despite it almost being a year since it was publicly released. Quite frankly, that is not good enough.

Although sadly, it is highly in keeping with the tokenistic \$300,000 provided in a budget that will not even allow the TNPM to undertake its core functions.

I hope we will receive today a formal response to the implementation report of November 2023 during the government's contribution and that this overdue response announces a full acceptance of all the recommendations detailed in the comprehensive report, as detailed in clause 3A of my motion. Further, as requested in clause 3B of my motion, it is incumbent the government provides a detailed progress update on the implementation of the report's recommendations, particularly given some of those recommendations' relevance to the ongoing implementation of both the Disability Royal Commission recommendations and the Tasmanian child sex abuse commission of inquiry recommendations.

Finally, clause 3C is clearly imperative, not only in light of the government's egregious budgetary funding fail, but also in recognition of the fact it is incumbent upon both government and parliament to ensure independent statutory entities are resourced appropriately to deliver the legislated functions and responsibilities that they have. This parliament in 2021, passed nation-leading legislation recognising we had a fundamental responsibility to protect the human rights of Tasmanian citizens, residents, children and vulnerable upon whom the state of Tasmania may exercise its sanctioned capacity to deprive them of their liberty for a range of punitive and non-punitive reasons. Therefore, I cannot stress enough this parliament continues to have just as active a responsibility to ensure those recognised human rights are actually and in reality being protected, not just by some written piece of law put on the statutes and then underfunded and forgotten about, but by a properly resourced and functioning independent statutory oversight entity. We cannot formally recognise that risk to human rights and then attempt to outsource responsibility for protecting those rights to an office with a name and maybe one full time staffer, but which, as has been clearly placed on the public record, will not be able to conduct any inspections of those sites where deprivation of liberty is occurring, its fundamental role.

If we do so then we need to publicly acknowledge we have set the TNPM up to fail. That we only intend to comply with our international OPCAT obligations as some form of mealy mouth lip service. If that is the case, then this parliament and this government should have the guts to say that is the case and stop the sham or this parliament holds the government to account, holds them to the intent and spirit of the OPCAT Convention and its own OPCAT Implementation Act 2021 and demands action and appropriate resourcing.

On the matter of funding, I am aware from the beginning it was flagged by the state government they would be in talks with the Commonwealth regarding funding contributions towards the funding of state and territory NPMs under the national NPM model.

I am also aware the Commonwealth NPM has issued recent statements also decrying the failure to fund the NPM model adequately via the most recent federal budget, which is also extremely disappointing. However, the state government cannot avoid the fact it is responsible for ensuring its own statutes are workable and functioning. While it would be helpful for some joint contribution from the Commonwealth, no doubt the fact remains it is state legislation and the Tasmanian government has a responsibility for the core operational funding of the Tasmanian NPM. No ifs or buts about it. It is necessary to point that out just in case the



government's response here today makes a feeble attempt to shift the lack of funding blame to their federal counterparts. May I say right now to the government, please do not waste this Chamber's time with any such claim, because it will not wash.

In conclusion, I reiterate my opening comments. I had hoped when I tabled this motion in December last year, it would quickly become redundant due to a formal government acceptance of the implementation report's recommendations and commencement of an appropriate resourced action plan. Yet, as we know, this motion unfortunately is still relevant almost 12 months on. I wish to briefly revisit the former Attorney-General's second reading speech, as referenced earlier, as we know. Courts and others look to second reading speeches to assess intent and purpose of legislation, the intent and purpose of the OPCAT Implementation Act 2021 can be interpreted by the following statement from the former Attorney-General majoring debate and I quote:

Our government is committed to ensuring that people in places of detention are treated humanely, appropriately and in accordance with the international law. I look forward to working with the NPM in this new role that independently provides oversight and an important responsibility.

Despite this government's latest failure to deliver on that expressed intent, it is still salvageable. Tasmania can still deliver on that intent. It is imperative that we do so. As I raised at the outset of this debate, the ratification by Australia of the OPCAT Convention was a formal acknowledgement that with the extraordinary state-sanctioned power to deprive people of their liberty comes the real risk of abuse of that power. Tasmania, leading the way by being the first state to legislate in accordance with the proposed national model of state-based NPMs, now also enshrines in our statutes that acknowledgement of human rights, responsibilities and risks of such power.

As the ultimate legislators, this parliament not only has the right but an obligation to see that such an acknowledgement of the need for legislated oversight of such a power is then enacted and resourced swiftly and comprehensively in an accountable way.

Finally, I take this opportunity to remind members of an invitation they would have received recently from the TNPM to attend a briefing on 27 November, next week, in the Long Room, commencing at 1 p.m. This briefing will include a presentation on a supplementary report on the TNPM's mandate and the TNPM's annual report for 2023-24. Significantly, this briefing will also include OPCAT expert, Mr Ben Buckland, from the Association for the Prevention of Torture in Geneva. While recognising that that is not necessarily the lightest of subjects to be contemplating during our lunch break, I urge members to try to attend, even briefly, to benefit from that briefing.

Mr President, on that, I commend the motion to the House.

[6.07 p.m.]

**Ms WEBB** (Nelson) - Oh my goodness, Mr President, my goodness indeed.

First, let me say thank you to the member for Hobart for making a contribution on the motion. I appreciate that and I agree with the remarks made about the difficulty of believing that we would go to the trouble in this state to be nation leading in establishing an NPM mechanism under legislation that went through this place only to, after establishing it, asking it to develop a model, having that model presented and outlined in an excellent report, then

utterly fail to fund it. We are not talking about big bickies here. We are talking about an amount of money that can be agreed to over a handshake at a social function and be given to private companies as corporate welfare at the drop of a hat, it seems. We are talking about \$1.5 million that was requested for the 2024-25 year, \$1.7 million for the year following and \$300,000 which was given, an utter disgrace. I will pick up on that later.

Let me now turn to the government's - what I cannot even bring myself to call a - contribution. Actually, it is just an insult. I put these motions up, as do all members, in good faith of discussing something appropriate in this place over which we have some parliamentary oversight and responsibility in terms of scrutiny and holding a government to account for the members of our community who elected us to be here to do that job. I believe the Leader, on behalf of the government, began that contribution by trying to suggest that this was an inappropriate motion, that this was not the appropriate place for us to be having this discussion. Utterly astounding for that to even be tried on as a statement here. We are talking about a statutory entity under legislation that we passed in this place, that we put in place to ensure that, as a state, we are appropriately undertaking our powers in terms of deprivation of liberty of citizens. An independent oversight mechanism under statute. There is no other place but here to have this conversation and discussion. How dare the government suggest otherwise? How dare they? It is not us in this place not doing our job when it comes to protecting human rights, not while I am here. It is this government not doing its job to protect the human rights of Tasmanians appropriately when it comes to matters like funding the Tasmanian NPM appropriately. It is this government that is failing utterly, and this place here will not fail in its job of oversight and scrutiny of a government so chronically failing. It is not a good day for this government to make such ridiculous statements.

Not only that, apparently this motion is making some sort of 'demand for arbitrary documents,' was the phrasing. Well, excuse me, let us be very clear here, this motion is an entirely reasonable motion, noting a report of a statutory entity, the recommendations that report made, and the call on the government made in this motion, an entirely modest and appropriate one it is, just to be very clear. It calls on the Tasmanian government to:

- (e) Commit to accepting and delivering the report's eight recommendations in full.

Straightforward. We often call for a commitment, an indication of government supported recommendations made by independent statutory entities such as the TNPM.

- (f) Deliver an update on any progress made on the implementation of any recommendations since the report's public release on 1 December

An update that literally could have been exactly what the Leader did right here in her contribution when she spoke about recommendation 3; she literally provided an update in relation to the recommendation relating to the Commissioner for Children and Young People and the co-location and co-organisation, as suggested by the commission of inquiry also, she literally did what 3(b) is calling for in relation to that recommendation. Where is the harm in that?

I am not calling for arbitrary documents, I am calling for information to be shared in the public domain. The Leader can do it here at the podium. They could put out a press release, they could put it in a formal response. They can set it to music for all I care. Providing an update is a very simple thing to do and if you have not made progress just say you have not made progress yet, or perhaps you are intending to do that at a later stage, it is not even asking them to have done it, just for an update on progress as to what they are doing in relation to it. It is not hard, it is reasonable, and it is appropriate for this place to be asking for it. And it is

utterly pathetic that the government cannot even see fit to support a motion calling on them to provide an update on their own activity in relation to a statutory entity. I cannot shake my head enough on this.

The third thing, 3(c), in the motion calls for them to 'detail a time frame for the delivery and implementation of remaining recommendations still to be undertaken and completed'. Again, it is not calling on them for it to have done it and is not calling for it to be of any particular depth and detail. It simply says, tell us what the time frame is for putting the other recommendations into place. It is an update, it is information, it is what we are supposed to seek here in this place on behalf of our communities in relation to government actions being taken or not taken. There is nothing arbitrary about these calls. There is nothing that says it needs to be even in document form. It is simply calling on the government to provide information and they show themselves to be utterly insincere in their commitment to human rights and the oversight through the Tasmanian NPM in not even being prepared to provide that.

It is all very well for the Leader to get up here and speak about the government's understanding about how important OPCAT is and how important it is that they have funded thus far the establishment of the TNPM and the work done over the past two years, which is detailed in the implementation report that we are noting today. Excellent. That is fantastic. Noone is taking any issue with that. Yes, they have done that work and funded that work as required, but here is where the rubber hits the road: we have legislated something into existence, we have funded for it to begin and to develop a model that needs to be taken forward for it to actually do the work, as described in the legislation, and now we are tripping at the first hurdle because it literally cannot do the work. It literally is not funded to do any visits, which is the core function of this role. The Tasmanian NPM will not be able to provide oversight as legislated because it does not have the money to do visits. Utterly unacceptable. For the government to come here and pretend in its contribution that there is anything laudable about the fact that it has failed entirely to fund this entity to do this important work is astonishing.

It's all very well for the government to welcome this report and to thank Mr Connick and his team for the report, but if you then ignore the report and prevent it from being implemented through a lack of funding, then that is nothing more than spitting in the faces of Mr Connick and his team. In fact, just today we had tabled the Ombudsman's annual report and I am going to quote from page 15 of that report that was tabled today. This is what it said in the Ombudsman's annual report on this topic:

On 1 December 2023 I published my implementation program report on Preventing Torture and Ill Treatment in Tasmania and delivered it to the government. This included recommendations for the NPM's organisational design and the development of strategic goals. The report can be accessed at [npm.tas.gov.au](http://npm.tas.gov.au).

Here it is. Then he says this:

Regrettably, I have received no response to that report or its recommendations.

I do not know if the Leader, inadvertently perhaps on her part, but maybe not inadvertently on the government's part, stood at this podium and misled this Chamber in her response because she said that the Attorney-General had written or had done something in private acknowledging the report to Mr Connick. Yet the Ombudsman's annual report for 2023-24 tabled today says otherwise. Although this report was tabled on 1 December last year, either the Attorney-General did not respond at all through to 30 June 2024, which is a period covered

by the annual report and has subsequently responded. It would be interesting to know that time frame. Maybe the Leader has not misled the Chamber, but she better be careful about actually providing us, I think, so that we can be sure we were not misled, the date at which the Attorney-General communicated with Mr Connick in relation to this report and what form that communication took because here in the Ombudsman's annual report, Mr Connick says otherwise. Certainly through, I presume to 30 June this year. Disgraceful.

If it didn't happen until after 30 June this year, if it has happened at some point post 30 June through to now, how pathetic is that? Maybe it was only done because this motion was on the books here in this Chamber. Maybe it was only done because they knew they would have to actually speak to it here in this Chamber. Oh, but that is right, the government does not think this is the right place for us to be discussing this. Well, if it is the only way to get action from the government on this and actually prompt them to respond to Mr Connick, then it is a good thing we are doing it.

**Mrs Hiscutt** - Through you, Mr President. I have just seen a letter that was sent on 5 June. It does have sensitive information, therefore, I cannot table it. I am sorry, but it was a letter.

**Ms WEBB** - I am not asking for it to be tabled but it is very interesting. If it was 5 June, it is within the time that this Ombudsman's annual report covers, 2023-24. Why would the Ombudsman say, 'regrettably, I have received no response to that report or its recommendations'? That is an interesting point. I think the government is on shaky ground there. Sounds like they're saying Mr Connick is misleading in his annual report.

**Mrs Hiscutt** - Not at all.

**Ms WEBB** - One of you is telling the truth and somebody is not. Given that there is a reluctance here on the government's part to be upfront about why they are utterly failing to fund this entity to do its work, it does not look good for the government.

As you can tell, I feel quite strongly about this topic. That is because it is fundamentally important. The state as an entity has extraordinary powers over its citizens and the deprivation of liberty is one of those extraordinary powers the state has. The risks that go alongside the exercise of that power can be so significant and consequential to our citizens. That is why oversight bodies are so important. We have established the TNPM under statute in this place. We agreed it was important that we lead the nation to do so. The government invested these past two years in an establishment process so that the implementation report could be developed, a model could be put forward as appropriate for the entity to undertake its work. Here we are at a time the government is utterly failing to then fund the entity to do any of that work. Literally, not a single visit can occur under the funding provided.

The motion that I am asking members to support in this place is entirely reasonable and appropriate; it calls on the government to commit to accepting and delivering the report's eight recommendations in full, which are listed there and any member can read and see are quite reasonable and modest recommendations - some of which the government is already doing as the Leader accidentally gave us an update on as per 3(b) of the motion during her contribution. Part 3(b) calls for delivery of an update on progress made on the implementation. The government can do that in any number of ways back to this place. It is an easy thing. Tell us what you have done. It is not saying you have to have done it, just tell us what you have done to date.

Then 3(c) is: tell us what the plan is going forward to implement them. They are such modest and easy requests in this motion. I ask members of this place to support this motion. I ask the government to have a little more common decency in responding to motions such as this in this place henceforth. It is so unbecoming for a government to get up and suggest that this Chamber, literally doing its job through motions such as this, is inappropriate. I absolutely decry that kind of attitude and behaviour from the government and ask it to have the self respect not to do it again.

I commend the motion to members and I hope that they will support it.

**Motion agreed to.**

